## BEFORE THE APPEALS BOARD FOR THE KANSAS WORKERS COMPENSATION

| LESTER E. GILLIS                                      |                    |
|---|--------------------|
| VS. Claimant )  | Docket No. 440 202 |
| HAVENS STEEL COMPANY                                  | Docket No. 112,383 |
| Respondent )  |                    |
| AMERICAN MUTUAL LIABILITY INSURANCE Insurance Carrier |                    |

## **ORDER**

Claimant requests review of the Preliminary Hearing Order entered in this proceeding by Administrative Law Judge Robert H. Foerschler on April 18, 1995.

## **ISSUES**

An Award was entered in this proceeding on March 28, 1991. Thereafter, claimant filed a Form E-3, Application for Preliminary Hearing, to request additional medical treatment. The Administrative Law Judge denied claimant's request for ongoing chiropractic treatment, but authorized treatment from a physiatrist for a consultation and referral to a pain management facility. The Administrative Law Judge further ordered that for such times as claimant attends such a facility, he should be paid reasonable expenses and mileage from his residence. Claimant requests the Appeals Board review the denial of claimant's request for treatment by A.J. Porter, D.C., for medical expenses and medical mileage expenses for treatment claimant has received from Dr. Porter. Those are the issues now before the Appeals Board.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds as follows:

The Director's office, parties and Administrative Law Judge all treated this proceeding as a preliminary hearing within the context of a post-award request for additional medical treatment. As such, the jurisdiction of the Appeals Board to review the preliminary hearing findings by the Administrative Law Judge is as statutorily provided by K.S.A. 44-551(b)(2)(A), as amended by S.B. 59 (1995), and K.S.A. 44-534a(a)(2).

The Appeals Board has jurisdiction only to review preliminary orders where it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction, or where one of the specific jurisdictional issues listed in K.S.A. 44-534a is in controversy. Claimant's allegation that the Administrative Law Judge erred in not granting claimant's request for chiropractic treatment does not give rise to one of the issues in K.S.A. 44-534a

and does not otherwise amount to an allegation that the Administrative Law Judge has exceeded his jurisdiction. Accordingly, the Appeals Board does not have jurisdiction to review the Administrative Law Judge's preliminary decision concerning medical treatment. The claimant's Application for Review should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this review should be, and hereby is, dismissed and that the Preliminary Hearing Order of Administrative Law Judge Robert H. Foerschler dated April 18, 1995 remains in full force and effect.

|    | IT IS SO ORDERED.   |
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|    | Dated this day of September 1995.   |
|    | BOARD MEMBER  |
|    | BOARD MEMBER  |
|    | BOARD MEMBER  |
| c: | Robert E. Tilton, Topeka, KS<br>Gregory D. Worth, Lenexa, KS<br>Robert H. Foerschler, Administrative Law Judge<br>Philip S. Harness, Director |